

**Freedom Court Reporting, Inc**

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF TEXAS  
3 MARSHALL DIVISION

4 Case No. 2:08-cv-422 TJW

5 DEPOSITION OF ERIC EMDE

May 4, 2010

6 PATTY BEALL, MATTHEW MAXWELL, TALINA McELHANY and  
7 KELLY HAMPTON, individually and on behalf of all  
8 others similarly situated,

9 Plaintiffs,

10 vs.

11 TYLER TECHNOLOGIES, INC. and EDP ENTERPRISES,  
12 INC.,

13 Defendants.

14 APPEARANCES:

15 ZELBST, HOLMES & BUTLER  
16 By Chandra L. Holmes Ray, Esq.  
17 P.O. Box 365  
18 Lawton, Oklahoma 73502  
19 (580) 248-4844  
20 Appearing on behalf of Plaintiffs.

21 MORGAN, LEWIS & BOCKIUS, LLP  
22 By Paulo B. McKeeby, Esq.  
23 1717 Main Street, Suite 3200  
24 Dallas, Texas 75201-7347  
25 (214) 466-4000  
Appearing on behalf of Defendants.

Also Present: H. Lynn Moore, Jr.

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1 Q And then Mr. Ellison became your  
2 immediate supervisor at some point in December or  
3 November?

4 A Somewhere in there, yes.

5 Q And then at some point Donna again  
6 became your supervisor?

7 A No.

8 Q Is Dyke Ellison your supervisor  
9 currently?

10 A Yes.

11 Q Is Donna Martindale still employed by  
12 Tyler?

13 A I believe so.

14 Q And why were you -- what were the  
15 circumstances surrounding your transfer from  
16 Ms. Martindale to Mr. Ellison?

17 A Corporate -- or internal INCODE  
18 reorganization.

19 Q Have you -- I take it you currently  
20 work out of your home?

21 A Meaning, do I go into the office  
22 otherwise?

23 Q Yes.

24 A Yes.

25 Q You work out of your home?

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1 A Yes, I do.

2 Q Based on the meaning you just gave?

3 A Yes.

4 Q And that's always been the case since  
5 you've been employed by Tyler?

6 A Yes.

7 Q And you report through the INCODE  
8 Lubbock office, correct?

9 A That's correct.

10 Q And that's always been the case  
11 throughout your employment at Tyler?

12 A That's correct.

13 Q Have you ever been deposed before  
14 today?

15 A No, I have not.

16 Q Have you ever been a party in any legal  
17 proceeding?

18 A Yes.

19 Q What was that?

20 A I was a juror in a civil trial, and I  
21 was a juror in a criminal trial and almost got on  
22 a murder case.

23 Q Have you ever filed any claims against  
24 an employer, other than Tyler in this case?

25 A No, I have not.

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1 But I was more the middleman.

2 Q So with an implementation, some  
3 tasking, to use your term, has already been done  
4 before you get the -- before you're on the site?

5 A Yes.

6 Q And that would have been done by the  
7 conversion programmer?

8 A Or the project manager or the -- or  
9 maybe even some of the other people that were  
10 involved on other parts of the program.

11 Q And the people who do the background  
12 work that you mentioned and the formulas and  
13 calculations, would that have been conversion  
14 programs or some other group of employees?

15 A I think that -- conversion programmers  
16 are only involved when there's data from another  
17 piece of software that's being converted into the  
18 INCODE software. The tasking might say that this  
19 is conversion, just realizing that there's more to  
20 look at. But that does not mean that I would, in  
21 fact, be the conversion person.

22 The person that does the setup,  
23 preliminary setup, there would be several  
24 different people involved. One could be setting  
25 up forms, another person could be working with the

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1 people that do -- for example, on calculations for  
2 electrical permits, how do they -- somebody would  
3 call, work with the building people and say, "How  
4 do you calculate these things? What are the  
5 scales that you would use?" They would write the  
6 formulas for that.

7 Q And all that would be done before you  
8 get to the site?

9 A Generally, yes.

10 Q Are you familiar with a term  
11 "configuration"?

12 A Configuration, in a general sense, yes.

13 Q Is that a term that's used at Tyler  
14 with respect -- well, period?

15 A Yes, but it has a lot of different  
16 meanings.

17 Q The meaning that I attached to  
18 configuration relates to taking data from the  
19 customer's previous system and setting it up or  
20 configuring it into Tyler software. Do you -- is  
21 that a definition, if you will, of configuration  
22 that you're familiar with at Tyler?

23 A I'm familiar with the definition, but I  
24 would call that conversion.

25 Q And is conversion a subset of

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1 conversion?

2 A Yes.

3 Q And using not my definition of  
4 configuration, but a definition -- and I  
5 understand you testified that it's a broad term.  
6 So if you can answer the question, fine. Is there  
7 any work that you do that you would describe as  
8 configuration?

9 MS. HOLMES: Object to the form.

10 A Maybe a very small piece of it.

11 Q (BY MR. McKEEBY) What piece do you  
12 mean?

13 A I couldn't put a percentage on it, but  
14 it would be adjusting a form so it pulls in the  
15 right kind of -- maybe changing a field from  
16 something that was listed as property to something  
17 that belongs in a permit field. And it would be a  
18 matter of working with a Microsoft Word template  
19 to change the code. The code -- and this is not  
20 like coding in software. It's only coding, for  
21 example, changing the term from BP to PP, with  
22 whatever the attachment was.

23 Q And that's -- what definition of  
24 configuration are you using when you describe that  
25 functionality -- or that function, rather?

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1           A       How about tweaking? Just minor  
2 adjustments. Maybe a form needs to have an extra  
3 space in it. I could go do that.

4           Q       Otherwise, it would approach  
5 programming, which you don't do?

6           A       Oh, yeah, definitely. Even a lot of  
7 that other part, that's why we have specialists  
8 that do nothing but Word templates, for example,  
9 or forms templates.

10          Q       Let me -- I got a little off track,  
11 whether you know it or not. But let me get back  
12 to you getting a task document -- tasking document  
13 from Ms. -- is it Lynn?

14          A       Phyllis Lynn, yes.

15          Q       Let's -- I want to use an example. And  
16 I know that implementations can be different, but  
17 is there -- I've got this Copperas Cove time  
18 report in front of me, which is fairly recent.  
19 It's in the beginning of 2009. I think that's the  
20 first of the --

21          A       Yes.

22          Q       Do you have that one? And I'm not sure  
23 the document is going to help you, but it might.  
24 So go ahead and keep it in front of you, if you  
25 like. But my question relates to, it looks like



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1     what kind of facilities do they have, what their  
2     office hours are, would I have access before or  
3     after if I needed to to be able to stay there to  
4     work on things, what kind of --

5             Q       Access just to the facilities, you  
6     mean?

7             A       Access to the facilities and access to  
8     the computers and hardware so I could have  
9     passwords and be able to get into the server if I  
10    needed to; primarily, because some things you have  
11    to set up there. For example, set up a training  
12    environment, which is a macro that essentially  
13    runs and just populates everything with live data  
14    or what -- a mirror of it.

15            In this case, I may have talked to the  
16    configuration programmer beforehand to find out  
17    what they had and checked to make sure whatever  
18    forms they were going to be using were going to be  
19    available.

20            Q       And that's a Tyler employee, the  
21    configuration programmer?

22            A       Yes.

23            Q       And that's someone distinct from the  
24    conversion programmer?

25            A       Yes.



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1 Q Can you summarize what the  
2 configuration programmer does in this process?

3 A Well, she would have set up the  
4 formulas in this case. This is -- okay, Building  
5 Projects. So she would have set up the  
6 calculations for permits, as far as how they  
7 calculated the cost of the building permit and  
8 that sort of thing.

9 Q Is there someone in particular that  
10 you're thinking did this?

11 A That would have been Mary Beth Moore in  
12 this case.

13 Q And she has the title of configuration  
14 programmer, as far as you understand?

15 A I don't know what her title is, but  
16 that function the way -- that configuration, yeah,  
17 she would have done that.

18 Q Is she in Lubbock, or do you know?

19 A She's in Pasadena, I think; California,  
20 not Texas.

21 Q I guess you get to be good with  
22 geography, as much traveling as you do.

23 A Oh, I've been good with geography all  
24 along.

25 Q So in any event, she would have done

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1 the configuration work prior to you going to  
2 Copperas Cove, Texas?

3 A Yes.

4 MS. HOLMES: Object to the form.

5 Q (BY MR. McKEEBY) And you may have  
6 talked to her about that, you're not sure. But it  
7 would have been typical, or not unusual at least,  
8 for you to have some conversation with her?

9 A Well, conversation, no; possibly  
10 e-mails, yes.

11 Q Would you typically have read any  
12 reports or documentation about the customer's  
13 previous system before you traveled to Copperas  
14 Cove?

15 A No.

16 Q That would have been unusual?

17 A Yeah.

18 Q Can you ever remember a time when you  
19 would have done that?

20 A Only if the -- like in this case, Leah  
21 Beth possibly ever said they're converting from  
22 this to that, or I guess Max Wiggins, I think is  
23 the conversion programmer for this part of the  
24 software, if somebody ever said it's going from  
25 Black Bear to INCODE, or something like that,

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1 which really didn't make any difference to me one  
2 way or the other.

3 Q And by that, I mean, you didn't really  
4 need to know what the customer --

5 A From whence it came, no, I don't.

6 Q And I like the way you put it, but let  
7 me make sure I put it in a way others might  
8 understand it as well. You weren't really  
9 interested or didn't really need to know about the  
10 customer's previous system to do your job as an  
11 implementation specialist at Tyler?

12 A That's correct.

13 Q Did you, prior to -- again, using this  
14 just as an example, but prior to going to Copperas  
15 Cove, Texas, would you have prepared any type of  
16 training module or PowerPoint for the training  
17 that you were to perform?

18 A For that specific place, no.

19 Q Would you have training PowerPoints,  
20 handouts, or anything like that that you would  
21 take with you to Copperas Cove, Texas?

22 A I'd have the soft copy of it and print  
23 it there, if I had anything to bring; in some  
24 cases I did, and some cases I didn't.

25 Q What would it depend on?

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1 In the case of Copperas Cove, it was inside of a  
2 little server closet. But then there would also  
3 be --

4 Q You mean physically where you'd be  
5 working?

6 A Yeah. Best one was a bathroom, but  
7 that's another story. Also, where I would be  
8 working with people when I was actually training.  
9 In that case, they had a City Council chambers, so  
10 I would have to set up one of their laptops,  
11 projector, that sort of thing.

12 Q Would there be discussion during this  
13 initial meeting as to when training would  
14 commence?

15 A Yes.

16 Q And the -- I take it the customer would  
17 explain its preferences as to --

18 A Yeah, who they wanted to have trained  
19 and in what quantities, I guess, depending on  
20 function. There are some generic things on the  
21 CRM, or the customer relationship management  
22 software, which is the packages that I was  
23 training that are common. So you could have a  
24 larger group orientation and break into hands-on.  
25 But who was going to be there just depended on

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1 schedules for a lot of different things.

2 Q Is there a title that the person with  
3 whom you had this initial meeting typically held?

4 A No.

5 Q Varied from county to county?

6 A City to city, primarily. It could be a  
7 community development director. It could be the  
8 IT manager. It could be the city clerk. It just  
9 depends on the city, and the size, and how they're  
10 laid out.

11 Q And I guess I also would take it that  
12 the length of this initial consultation meeting  
13 would vary depending on the variety of factors?

14 A Yes.

15 Q So, again, it would be typical that  
16 during this initial consultation meaning you would  
17 try to -- you would identify who needed to be  
18 trained and on what?

19 A Yes.

20 MS. HOLMES: Object to the form.

21 Q (BY MR. McKEEBY) And that would be  
22 based on the input the customer would tell you?

23 A The customer -- I wouldn't identify it.  
24 They would tell me who they wanted trained and how  
25 much they needed to know.

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1 project is working with the project manager, the  
2 account rep, and support, and giving -- and the  
3 customer saying, "From here on out, support --  
4 here's the number for support. Here's how you  
5 call them, how you contact them, what to expect  
6 when you do talk to them." So it's completely  
7 turned over at that point.

8 Q Right. And you wouldn't provide any  
9 customer support after the go-live process?

10 MS. HOLMES: Object to the form.

11 Q (BY MR. McKEEBY) Is that accurate?

12 A I would not be in the support  
13 process -- support loop at all.

14 Q After they went live?

15 A Yes.

16 Q What is your highest level of  
17 education?

18 A Master's degree in education.

19 Q When did you get that?

20 A Oh, boy, you would ask.

21 Q You can look at your resume.

22 A I'm going to have to look at my resume,  
23 because it's been awhile. '93.

24 Q From where?

25 A University of Phoenix. Terrible

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1 STATE OF COLORADO)

2 ) ss. REPORTER'S CERTIFICATE

3 COUNTY OF DENVER )

4 I, Gail Obermeyer, do hereby certify  
5 that I am a Registered Professional Reporter and  
6 Notary Public within the State of Colorado; that  
7 previous to the commencement of the examination,  
8 the deponent was duly sworn to testify to the  
9 truth.

10 I further certify that this deposition  
11 was taken in shorthand by me at the time and place  
12 herein set forth, that it was thereafter reduced  
13 to typewritten form, and that the foregoing  
14 constitutes a true and correct transcript.

15 I further certify that I am not related  
16 to, employed by, nor of counsel for any of the  
17 parties or attorneys herein, nor otherwise  
18 interested in the result of the within action.

19 In witness whereof, I have affixed my  
20 signature and seal this 13th day of May, 2010.

21 My commission expires May 10, 2011.

22

23 Gail Obermeyer, RPR  
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Denver, Colorado 80202

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